

**Planning Board  
Meeting Minutes  
February 28, 2023  
6:31 PM-8:27 PM**

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TOWN OF WESTBOROUGH

**Planning Board Present:** Chairman Mark Silverberg, Hazel Nourse, Peter Bouchard, John Gelcich  
**Also present:** Jim Robbins-Town Planner, Kristen Belanger-Planning Dept. Administrative Assistant  
**Not present:** Jon Pezzoni

The regularly scheduled meeting of the Westborough Planning Board was held in Great Hall of the Forbes Building at 45 West Main St, Westborough, MA 01581 on Tuesday, February 28, 2023. Chairman Silverberg convened the meeting at 6:31 PM.

**Continuation of Public Hearing for Earth Moving Permit, 25 Gleason**

Mike Scott from Land Design Collaborative presented to the board.

They met in the field with Ms. Miller, Conservation Director, and reviewed the conditions of the property today compared to the plans filed last summer. They amended the plans to mark emerging wetlands that had begun to creep beyond the limits previously staked. They added an area north of the limits that had been cleared. They met with the Conservation Commission along with T&B and town staff. They went through the technical issues and should be issuing a letter within the week. More along the lines of needing to establish appropriate conditions and timelines for demonstrating compliance and achieving milestones to demonstrate they are working towards the end and subsequently will be allowed to continue working on the property. He would like to shoot for a continuance to 3/21.

Member Nourse asked for more of an explanation of the emerging wetland.

- Mr. Scott referred to wetland C where wetland is creeping upslope. This is probably a result of shallow groundwater along with vegetation and mature tree canopy that is no longer present. It is at the bottom of a steep hill on the west side. There was another area just north and separate from the large wetland that was dammed up by some earth work and as a result has become an isolated wetland and the discussion was to not remove it.

Jenn Sullivan, Conservation Director. The isolated wetland is captured on the plan, if they see the area growing or their activities increase it will be noted. Wetlands boundaries do change. In areas where they had impacts because there is heavy clay, water is not getting absorbed, plants are creeping up.

Ms. Miller had a conversation with the property owner and the leasee, and it is understood that they will not continue to create their own issues.

Ms. Miller said the commission would continue to be involved until restoration is complete, which is three growing seasons. If they came in with a site plan, there would be jurisdictional areas that may need a NOI. If it is 5 or 10 years down the road it would warrant an additional site visit.

Fred Lonardo, Community Development Director- Counsel is not here tonight but believes the EM Special Permit is only for remediation. Mr. Lonardo adamantly disagrees, he doesn't think any material should be removed from the site regardless if it is for remediation or not unless it is encompassed on the EM permit. Counsel Brodsky asked for a formal determination in April 2022 and Mr. Lonardo responded May 5, 2022 with a formal determination that any mining of material is subject to EM permit

through this board. The applicant chose not to use their right of appeal through the ZBA. Mr. Lonardo wants to make sure if the applicant chooses to only do Earth Moving for the remediation now, they need to come back to this board for continued operations. On a recent site visit, they identified two piles, one is 6 minus and the other is processed gravel. They have enough to do the entire remediation without processing any more material.

Mr. Scott said they had started processing materials before enforcement. He hasn't done any assessment on the quantity. Material stockpiled in the wetland has to be relocated out. They are requesting to process what they need which needs to come out of the wetland anyway.

Mr. Lonardo wants processing gravel to be noted on the special permit for hours of operation, where they process onsite, truck routes, otherwise he has no leverage to enforce.

Milford Stone would like the opportunity to take the extra material away. They want to benefit monetarily from unauthorized activity on the site.

Mr. Robbins agrees with everything being discussed. This Application is for remediation work. Applicant should amend the application to include all the work of Milford Stone and the Ward family. The Board wants to be able to control hours of operation and routes.

Chairman Silverberg wants to make sure T&B is aware of the additional removal. He does not want the pile getting bigger from this day forward.

- Mr. Scott said Milford Stone does not have equipment on site.

Mr. Lonardo would advise we don't combine this with Boston Hill. There is a make shift roadway and nothing to prevent them from going onto the adjacent property.

In this case the only operation is earth moving, nothing would come to the building dept. Mr. Lonardo will put his recommendations in writing.

Boston Hill property (owned by Massad family), was given a verbal cease and desist because some of the the mined material was going through the Ward property. They each need to have their own earth moving permits.

Mr. Scott said the intended route is out Gleason Street. Mr. Robbins said you can restrict hauling routes not to include Valente Dr. Approval would identify the property where the work is to occur by street address and parcel.

Chairman Silverberg asked if there is remediation required on the other property.

Ms. Miller said that property is not in the wetland or jurisdiction. Not Conservation Commission.

This EM permit is to restore the wetland and 50 ft. beyond.

If you clear more than 20,000 sq. ft. you need a permit. Joe Inman issued a cease and desist on Mr. Sanderson who cleared 7 acres without a permit. He never came back for a permit and has since sold the property to Massad.

Mr. Robbins and Mr. Lonardo were informed by the Town of Shrewsbury this work was going on. That work has since been stopped. This work is not part of that original complaint.

Mr. Scott responded several trees have been planted on the Ward property.

**Member Nourse moved to continue the public hearing for the EM permit at 25 Gleason to 3/21/23 at 6:30 pm as requested by the applicant. Member Gelcich seconded.**

**Vote: 4-0**

**Continuation of Public Hearing for 165 Flanders Site Plan Application**

Chairman Silverberg read the letter from the applicant to continue the public hearing.

**Member Bouchard moved that the Planning Board continue the public hearing for the site plan review application of 165 Flanders Rd. to 3/15/23 at 6:30 pm as requested by the applicant in a letter dated 2/8/2023. Member Nourse seconded.**

**Vote: 4-0**

**Preliminary Subdivision Plan for 48 Flanders Rd. (Waterman Design)**

Barry Yaceshyn, Civil Engineer for WDA Design Group presented to the board.

WDA took initial comments and made modifications to the original designs. They changed realignment to the road further up the hill. This allowed them to reduce the slope from 9 to 7%. This also helped the alignments for houses and driveways to meet the minimum slopes. The plan went from 3 to 4 lots being proposed.

Member Nourse said it looks like they are already beginning demo on the existing house. This house has historic significance because it has a historical beehive oven. They came before historic about 3 years ago when they were applying for a demo permit in 2020. There is no regulation on expiration of that permit.

Mr. Lonardo and Mr. Robbins discussed this and the original demo delay is past its time constraint. However, they will need a new demo permit. The State changed the regulations up to 1.5 years for the maximum allowable demo delay. The Towns demo delay doesn't have to conform to the state's but it can't go past the 1.5 year state delay. This case came in under the old bylaw.

If they do not do demo within a certain amount of time from the demo delay expiring, do they need to come back to historic?

How would historic add expiration date to the demo permit.

Does the fact that they went to historic 3 years ago, require them to come back and go thru the process again. Ms. Allain said they did not approve a demo permit since people were living there and they could not turn off the water and sewer services.

Planning Board could add this to Ms. Allain's approval if needed. Ms. Allain said the new design is better.

Mr. Robbins responded that Mr. Lonardo wants them to finish the process they began three years ago. It is not in the Planning Board jurisdiction to grant a waiver for demo delay.

Chairman Silverberg mentioned that Jen Doherty sent out something for reuse of historic property items. Maybe that can be used for the beehive oven they are trying to save.

Member Nourse would like to know if the beehive oven has been removed. Mr. Yaceshyn will follow up.

There were moldings on the first floor that could be used. Member Nourse asked if there has ever been discussion to put time limits on site plans.

Mr. Robbins responded that Site Plans are not required by the state but would be up to the town. Site plan regulations are decided by the board and don't need to go to town meeting. Member Gelcich said they could put a condition that it expires in a certain time limit, in the decision as a stop gap.

Member Gelcich said when you have plans with no expiration, things like stormwater can be affected.

Septic can go in the open space. Member Gelcich asked what the benefit of open space would be?

Ms. Allain doesn't like the open space for this property.

Is it possible to do a no cut zone, so they'll maintain natural screening between new houses and neighbors.

- C1 had an issue with maintaining the lot width requirement. House will have to be within the arc on the plan.
- C2 has 12 ft wide trail easement. This would be a good candidate for a no cut zone.

Mr. Yaceshyn would prefer additional screening versus a no cut zone.

Chairman Silverberg anticipates when Mr. Yaceshyn sends out notification to abutters during definitive phase, they are going to ask about screening.

Member Nourse wants Planning Board to think about character of the town and think about how we can enhance development of land for these subdivisions. Mr. Robbins asked the Board to take a look at the current subdivisions that they like and then look at the plans, note the size of the lots, the zoning that created them, then look at what is going on in other towns and get copies of their zoning. Do this before creating rules and regulations.

Mr. Robbins talked to Mr. Yaceshyn about waivers he will need to submit to make this design work. Drainage is better, line of sight is better, this is a much better design overall. We need to have them on the next agenda and be done with the preliminary plan before Mr. Robbins leaves.

Mr. Yaceshyn relabeled the plans and included the perks.

Member Nourse said the existing house shares a driveway with the neighbor so we will not lose a driveway on Flanders.

Member Gelcich asked if they will lose the stone wall along Flanders.

- Mr. Yaceshyn responded possibly. They may be able to repurpose at the entrance.

**Member Bouchard moved that the Planning Board continue its discussion of the preliminary plan for the Residential Subdivision at 48 Flanders to 3/15/23. Member Nourse seconded.**

**Vote: 4-0**

**Continuation of Public Hearing for 190-212 Oak St Site Plan Application**

Chairman Silverberg read the letter from the applicant dated 2/27/2023 into the record.

**Member Bouchard made a motion that the Planning Board continue the public hearing for the Site Plan Review Application for 190-212 Oak Street and the public hearing to Modify Special Permit T-OV#2014-1 for Village Commons at 1 Gleason Street to Wednesday March 15, 2023 at 6:30pm as requested by the applicant in a letter dated 2/27/23. Member Gelcich seconded.**

**Vote: 4-0**

**Continuation of Public Hearing for Warrant Article #32 Update Zoning Bylaws**

Article 32 is now Article 33. Originally, we had Articles 29-31 now have Articles 30-33.

There were three items the Planning Board asked Mr. Robbins to look at 16, 56 and 72.

- Item 16- fines for violations of a special permit. Amendment is to come into conformance with state statute, Chapter 40A Section 7. Changes from not more than \$100 to conform with the state statute amount.
- Item 56 refers to section 6.7F(1). This section refers to special permits. No licensing board, it is Select Board.
- Item 72-8.4 G. Fines changed from not more than \$300 to following state bylaw which is \$50 first offense, \$100 second offense or \$200 each subsequent offense.

Special Permit for senior living projects changed to the state standard.

Suggestion from Counsel was to combine the first two articles. Combine article for reformatting with substantive changes. Reason to separate is we really need new format and wanted this to stand. If the other fails we would lose this as well. This allows one to go thru without the other.

**Member Gelcich moved that the Planning Board close the public hearing on Article 33 Amend Zoning Bylaws. Member Nourse seconded.**

**Vote: 4-0**

**Member Gelcich made a motion to support Article 33 as written in the warrant. Member Bouchard seconded.**

**Vote: 4-0**

**Informal Discussion regarding Town Meeting Zoning Articles**

Nothing left to discuss.

**Discussion of Notice of Intent to Sell and Convert Land Under MGL Ch. 61**



A 1.2 acre parcel on Lackey St. is being sold for \$300k. Open space committee voted unanimously to recommend to Select Board not to exercise that right.

All Planning Board members agree with the decision not to exercise that right.

**Chairman Silverberg made a motion that Planning Board recommend that Select Board not exercise Ch. 61 rights to purchase land located at 22 Lackey Street identified as lot 21 and Parcel ID 5-193-0. Member Bouchard seconded.**

**Vote: 4-0**

**Discussion Regarding Vote to Support Town Article for Sustainability Coordinator Position**

Will discuss this at next meeting on 3/15.

**Old/New Business**

**Committee Member reports**

- Open Space is in preliminary discussions with a land owner of a 30 acre parcel close to the Upton State Forest and there are discussion with the state to get them to purchase it.
- Hocomonco Pond Reuse meeting. There will be a warrant article since whenever you use a brownfield site you need to go to the EPA to get approval and use an approved site manager. There are two lagoons that can't be disturbed. They are talking about fencing the two lagoons from the public. EPA may make them put a fence up. May be a grant for dispatch that can pay for that fence. Chairman Silverberg is hoping to get this open this summer. Reviewing language regarding easements on the Amazon side. Making progress on the walking trail up to the ball fields.

Sustainable Westborough— discussion to abandon climate action plan. Proponent has been invited to come to the next Planning Board meeting.

Mr. Robbins said we will be getting an application from CSX to execute phase 2 of the approved site plan approved 10 years ago. He invited them to come in for an informal discussion around 3/21. Mr. Lonardo will decide if this is a full site plan or limited.

Deadline has closed for the Town Planner posting, they received 12 applications. Town Manager will be working with Search committee to review those. The first meeting will be on Monday.

**Chairman Silverberg made a motion to adjourn the meeting at 8:27pm. Member Nourse seconded.**

**Vote: 4-0**

*Respectfully Submitted by Kristen Belanger, Planning Dept. Admin. Assistant*



*\*One board member signature required for approval.*